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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,406	03/29/2006	Bernadette Verneau	065691-0397	3436

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EXAMINER	
ML, QIUWEN	

ART UNIT	PAPER NUMBER
1655	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/542,406	VERNEAU, BERNADETTE	
	Examiner	Art Unit	
	QIUWEN MI	1655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 August 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,14-23 and 26-36* is/are pending in the application.

4a) Of the above claim(s) *15,16,23,26-32,35 and 36* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,14,17-22,33 and 34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Applicant's amendment in the reply filed on 8/31/09 is acknowledged, with the cancellation of Claims 2-13, 24, and 25, and newly added claims 35 and 36. Since the newly added claims 35 and 36 are drawn to non-elected lipophilic additive species beeswax and glycerol palmitostearate, thus are withdrawn. Claims 1, and 14-23, and 26-36 are pending. Claims 15, 16, 23, 26-32, 35, and 36 are withdrawn as they are directed toward a non-elected invention groups or species. **Claims 1, 14, 17-22, 33, and 34 are examined on the merits**.

Any rejection that is not reiterated is hereby withdrawn.

Claim Rejections –35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 14, 17-22, 33, and 34 remain rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Mann (US 5,273,754), Horrobin (US 4,393,049), Mamana (US 2002/0192308), and Williams et al (US 6,069,147).

This rejection is maintained for reasons of record set forth in the Office Action mailed out on 5/29/2009, repeated below, slightly altered to take into consideration Applicant's amendment filed on 8/31/09. Applicants' arguments filed have been fully considered but they are not deemed to be persuasive.

Mann teaches an appetite suppressant composition leading to a decrease in weight (col 1, lines 5-10) comprising a heating carminative substance, such as standard oleoresin capsicum which contains capsaicin (thus capsaicinoids) (thus in the form of capsicum resin) (col 2, lines 45-50). Mann also teaches that capsaicin is a preferred heating carminative substance, …having a gastric heating effect exhibits a local anesthetic effect in the stomach (particularly upon the gastric nerves controlling hunger) when administered orally at a sufficient dose (col 2, lines 30-40). Mann further teaches that the appetite suppressant composition in a form suitable for oral administration, and preferably as a capsule (col 4, lines 22-28). Mann also teaches a 60 mg out of 300 mg capsule of menthol (thus 20% other physiologically active component).

Mann does not teach the incorporation of vegetable oils (sunflower oil), green tea, and lipophilic additive into the composition, and neither does Mann teaches the claimed amount of the components, or the claimed other physically active components.

Horrobin teaches the treatment of obesity involves the administration of linoleic acid, generally in the form of vegetable oils such as sunflower oil and/or corn oil (col 3, lines 30-35). Horrobin also teaches the composition as administrated is in the form of a capsule, etc (col 6, lines 30-38).

Mamana teaches an appetite suppressant for controlling weight comprising green tea or green tea leaf extract (thus one or more physiologically active components) (claim 1). Mamana further teaches that the appetite suppressant is preferably administered orally in the form of a capsule etc [0014].

Williams et al teach thermogenesis stimulating drugs during or following a weight loss diet (see Abstract). Williams et al teach excipients and/or additives can contain the usual diluents

such as water, oil and/or suspending aids such as polyethylene glycols (thus a lipophilic additive, since Williams et al teach the claimed lipophilic additive, thus it is solid or pasty at room temperature as it's claimed) and the like (col 2, lines 60-68; col 3, lines 1-10).

"It is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose ...[T]he idea of combining them flows logically from their having been individually taught in the prior art." *In re* Kerkhoven, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980) (citations omitted).

In the instant case, all of the above-listed compositions were known for weight control. Thus, one of ordinary skill in the art would have had a reasonable expectation that the combination of these compounds would have been additively beneficial for weight control.

It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to combine the instant compositions for their known benefit since each is well known in the art for weight control. This rejection is based on the well established proposition of patent law that no invention resides in combining old compositions of known properties where the results obtained thereby are no more than the additive effect of the compositions, *In re* Sussman, 136 F.2d 715, 718, 58 USPQ 262, 264 (CCPA 1943).

It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. The differences in concentration or temperature will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration or temperature is critical. "[W]here the general conditions of a claim are

disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). (Claimed process which was performed at a temperature between 40°C and 80°C and an acid concentration between 25% and 70% was held to be prima facie obvious over a reference process which differed from the claims only in that the reference process was performed at a temperature of 100°C and an acid concentration of 10%.); see also Peterson, 315 F.3d at 1330, 65 USPQ2d at 1382 ("The normal desire of scientists or artisans to improve upon what is already generally known provides the motivation to determine where in a disclosed set of percentage ranges is the optimum combination of percentages."); In re Hoeschele, 406 F.2d 1403, 160 USPQ 809 (CCPA 1969) (Claimed elastomeric polyurethanes which fell within the broad scope of the references were held to be unpatentable thereover because, among other reasons, there was no evidence of the criticality of the claimed ranges of molecular weight or molar proportions.). For more recent cases applying this principle, see Merck & Co. Inc. v. Biocraft Laboratories Inc., 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.), cert. denied, 493 U.S. 975 (1989); In re Kulling, 897 F.2d 1147, 14 USPQ2d 1056 (Fed. Cir. 1990); and In re Geisler, 116 F.3d 1465, 43 USPQ2d 1362 (Fed. Cir. 1997). see MPEP § 2144.05 part II A. Although the prior art did not specifically disclose the amounts of each constituent, it would have been obvious to one of ordinary skill in the art at the time Applicants' invention was made to determine all operable and optimal concentrations of components because concentrations of the claimed components are art-recognized result effective variables because they have the ability for weight control, which would have been routinely determined and optimized in the pharmaceutical art.

Accordingly, the instant claims, in the range of proportions where no unexpected results are observed, would have been obvious to one of ordinary skill having the above cited references before him.

Therefore, it would have been *prima facie* obvious for one of ordinary skill in the art at the time the invention was made to combine the inventions of Mann, Horrobin, Mamana, and Williams et al since all of them teach compositions for weight control individually in the art. Since all the compositions yielded beneficial results in weight control, one of ordinary skill in the art would have been motivated to make the modifications to combine the teachings of the references together. Regarding the limitation to the amount of the components in the composition, the result-effective adjustment in conventional working parameters is deemed merely a matter of judicious selection and routine optimization which is well within the purview of the skilled artisan, which is dependent on the body weight, age, and appetite of the patient that is needed.

From the teachings of the references, it is apparent that one of the ordinary skills in the art would have had a reasonable expectation of success in producing the claimed invention.

Thus, the invention as a whole is *prima facie* obvious over the references, especially in the absence of evidence to the contrary.

Regarding Mann, Applicant argues that "However, the Office completely obliterates the fact that capsaicinoids have a burning effect as it is disclosed in Mann (col. 3, line 30-35): "to diminish any undesirable burning sensation" (page 7, 4th paragraph). Applicant also argues that "To overcome this problem, Mann proposes to add a

"cooling carminative substance" which is absent in the present patent application. Said patent application uses a totally different approach to solve this burning sensation problem, which is the inclusion of capsaicin in an oil/lipophilic additive matrix. Nowhere in Mann, is it suggested or mentioned to use vegetable oils to solve this problem (see our precedent response)" (page 7, last paragraph).

This is not found persuasive. The cited references are combined because they are all used to treat obesity.

Applicant argues that "The Office also affirms that Mann further teaches that the appetite suppressant composition is in a form suitable for oral administration, and preferably as a capsule (thus solid or pasty at room temperature) (col. 4, lines 22-28). The Office apparently considers it inherent for capsules to be solid or pasty at room temperature. However, the properties of Mann's capsules cannot be "solid or pasty at room temperature" (page 8, 1st paragraph). Applicant argues that "Indeed, Mann discloses (column 4, lines 22-28) that "the appetite suppressant composition of the present invention is manufactured by combining all ingredients in a form suitable for oral administration, and preferably as a capsule or tablet" (page 8, 2nd paragraph). Applicant argues that "Applicant notes that a tablet is compressed powder. Therefore, the term "capsule" back into context is unambiguous as a person of ordinary skill in the art would naturally understand that the capsules of Mann are capsules containing powder, as it is not specified any other active principle medium" (page 8, 3rd paragraph). Applicant argues that "Moreover, in claim 1 of the present application, the Applicant respectfully submits that the term "solid or pasty at room temperature" only refers to the lipophilic additive, and not to the dosage form" (page 8, 4th paragraph). Applicant argues that "The only link between Mann's patent and the present

application is the presence of capsaicin in the formulation and its inherent side effects. Therefore, and except for the presence of capsaicin, the present patent application is totally unrelated to Mann's patent" (page 8, 5th paragraph).

According to amended claims, Willaim teaches using the claimed lipophilic additive PEG, which should be solid or pasty at room temperature.

Regarding Horrobin, Applicant argues that "The Office omits to say, however, that this is a current technique for the treatment of obesity (column 3, line 31), which, in order to be effective requires the intake of other fats in the diet to be substantially reduced (column 3, line 34-36). Indeed, the presence of other fats in the diet interferes with the conversion of linoleic acid to gamma-linolenic acid and thus reduces the effectiveness of the treatment (column 3, line 42-45)" (page 8, last paragraph bridging page 9). Applicant also argues that "Therefore, the skilled person in the art would not have used linoleic acid with at least one lipophilic additive as claimed in the present invention. This also proves that in the present case, it is not linoleic acid which is responsible for the treatment and prevention of obesity, and that linoleic acid's only contribution is on the solving of the side effects of capsaicinoids. It is not disclosed nor suggested in Horrobin such a property of linoleic acid" (page 9, 2nd paragraph). Applicant argues that "Moreover, in view of Horrobin, the skilled person in the art would not have added capsaicin to linoleic acid if he had expected to cumulate the effects of these two compounds, but would have added gamma-linolenic acid, which is a poly-unsaturated fatty acid. In view of Horrobin and Mann, a person of ordinary skill in the art would have not used capsaicinoids and linoleic acid, because this combination would have been nonobvious" (page 9, 3rd and 4th paragraphs).

This is not found persuasive. Horrobin is introduced because Horrobin teaches the treatment of obesity involves the administration of linoleic acid, generally in the form of vegetable oils such as sunflower oil and/or corn oil, which are in the current claims.

Regarding Mamana, Applicant argues that "The Office considers that Mamana teaches an appetite suppressant for controlling weight comprising green tea or green tea leaf extract (thus, one or more physiologically active components). The Office also asserts that Mamana teaches that the appetite suppressant is preferably administered orally in the form of capsule, etc. (thus, solid or pasty at room temperature)" (page 9, 5th paragraph). Applicant argues that "First, Applicant notes that green tea is not the major ingredient of the present application and is not recited in the main claim 1. Second, Applicant notes that the limitation "solid or pasty at room temperature" refers in claim 1 to the lipophilic additive, and not to the dosage form. Though capsules can contain a solid or paste, the wording of Mamana is unambiguous: "The composition is preferably administered orally in the form of a tablet, capsule, or powder". Thus, in Mamana the term "capsule" taken in context means a capsule filled with powder, and does not refer to solids or pastes" (page 9, 2nd and 3rd paragraphs from the bottom). Applicant argues that "Therefore, Mamana is inapposite in the present Office Action as containing subject matter (green tea) that is unrelated to independent claim 1 of the present Application" (page 9, last paragraph).

This is not found persuasive. Mamana is introduced because Mamana teaches an appetite suppressant for controlling weight comprising green tea or green tea leaf extract, and green tea is in claim 22.

Regarding Williams, Applicant argues that "The Office cites Williams for its disclosure of the use of polyethylene glycol (PEG) with thermogenesis stimulating drugs, to satisfy the limitation "lipophilic additive". The relevant passage in Williams, however, presents a more limited disclosure regarding PEG. Williams refers specifically to the lipophilic additives as "suspending aids" (column 3, lines 4-9). In particular, Williams mentions these "suspending aids" as being for "liquid preparations such as solutions, suspensions or emulsions", indicating that the suspending aids are for suspensions or emulsions" (page 10, 1st paragraph). Applicant also argues that "Therefore a skilled person in the art would not consider the Williams' disclosure relevant to a preparation that did not require a suspending aid. It appears that the claim 1 does not refer to suspensions or emulsions. Thus it would appear to a person of ordinary skill in the art that no suspending aid, such as the PEG disclosed in Williams, would be needed" (page 10, 2nd paragraph). Applicant further argues that "Moreover, PEG is used in Williams as an excipient with moxonidine, which is a structurally different compound than capsaicinoids. PEG is used to help the suspension of the drug and absolutely not to decrease the burning effect of capsaicinoids in the stomach, as it is in the presently claimed invention. Therefore, in view of Williams, the use of PEG with capsaicinoids, or even with another thermogenesis inducing compound different to moxonidine is totally unobvious. (page 10, 3rd and 4th paragraphs).

This is not found persuasive. Suspending aids can be used for making soft capsules. PEG is not only used with capsaicinoids. For instance, Muto et al (US 2006/0035944) teach "For liquid preparations for oral administration such as emulsions, syrups, suspensions, and solutions, ordinary used inactive diluents, for example, water or vegetable oil may be used. For these preparations, besides inactive diluents, adjuvants such as wetting agents, suspending aids,

sweating agents, flavoring agents, coloring agents or preservatives may be blended. After a liquid preparation is manufactured, the preparation may be filled in capsules made of a absorbable substance such as gelatin" [0280]. Wang (CN 1559410 A) also teaches that "Soft capsule of itraconazole is prepared by dissolving gelatin in water, adding glycerine and antiseptic, vacuum degassing, adding suspending aid to vegetable oil, mixing with itraconazole, adding antioxidizing agent and die pressing" (see Abstract).

Applicant argues that

"• Mann teaches that capsaicin may be useful for obesity treatment but acknowledges a tolerance problem due to the burning sensation in the stomach. To solve this problem, a "cooling carminative substance" such as menthol or herbal extracts are added. Such "cooling carminative substance" is absent from the composition of the present patent application" (page 10, 2nd paragraph from the bottom).

This is not found persuasive. MPEP 2111.03 states: For the purposes of searching for and applying prior art under 35 U.S.C. 102 and 103, absent a clear indication in the specification or claims of what the basic and novel characteristics actually are, "consisting essentially of" will be construed as equivalent to "comprising." See, e.g., PPG, 156 F.3d at 1355, 48 USPQ2d at 1355 ("PPG could have defined the scope of the phrase consisting essentially of" for purposes of its patent by making clear in its specification what it regarded as constituting a material change in the basic and novel characteristics of the invention."). See also > AK Steel Corp. v. Sollac, 344 F.3d 1234, 1240-41, 68 USPQ2d 1280, 1283-84 (Fed. Cir. 2003) (Applicant's statement in the specification that "silicon contents in the coating metal should not exceed about 0.5% by weight" along with a discussion of the deleterious effects of silicon provided basis to conclude that

silicon in excess of 0.5% by weight would materially alter the basic and novel properties of the invention. Thus, "consisting essentially of" as recited in the preamble was interpreted to permit no more than 0.5% by weight of silicon in the aluminum coating). Since "consisting essential of" is considered as open language "comprising", it is not precluded that the composition is allowed to contain components that are not in the claims.

"• Horrobin teaches that gamma-linolenic acid, which is a more tolerant form (than linoleic acid when used with fats and oils), may be useful for treating obesity. Gamma-linolenic acid poly-unsaturated fatty acid is not recited in the composition claims of the present application. Therefore the use of linoleic acid, and thus sunflower oil and/or corn oil, is unobvious in the present invention, which uses other lipophilic additives (such as beeswax)" (page 10, last paragraph bridging page 11).

This is not found persuasive. Williams teaches the claimed lipophilic additive, PEG, thus meet the claim limitations.

"• Mamana teaches that green tea leaves or extracts may be useful in the treatment of obesity. However, green tea leaves or extracts can be used as additional active principles which are not the subject matter of the main independent claim 1" (page 11, 2nd paragraph).

This is not found persuasive. Since "consisting essential of" is considered as open language "comprising", it is not precluded that the composition is allowed to contain components that are not in the claims.

"• Williams teaches that PEG may be used as a suspending aid for liquid formulations containing moxonidine. Williams does not teach that PEG may be used to diminish the burning

sensation induced by capsaicinoids or other thermogenesis inducing compounds" (page 11, 3rd paragraph).

This is not found persuasive. Suspending aids can be used for making soft capsules. For instance, Muto et al (US 2006/0035944) teach "For liquid preparations for oral administration such as emulsions, syrups, suspensions, and solutions, ordinary used inactive diluents, for example, water or vegetable oil may be used. For these preparations, besides inactive diluents, adjuvants such as wetting agents, suspending aids, sweating agents, flavoring agents, coloring agents or preservatives may be blended. After a liquid preparation is manufactured, the preparation may be filled in capsules made of a absorbable substance such as gelatin" [0280]. Wang (CN 1559410 A) also teaches that "Soft capsule of itraconazole is prepared by dissolving gelatin in water, adding glycerine and antiseptic, vacuum degassing, adding suspending aid to vegetable oil, mixing with itraconazole, adding antioxidizing agent and die pressing" (see Abstract).

Applicant argues that "Nothing in the prior art cited would suggest the idea that the tolerance problem (burning sensation in the stomach) of using capsaicin could be solved by using an oil-based formulation containing common vegetable oil with a lipophilic additive. From the teaching of the references, it is therefore apparent that one of the ordinary skills in the art would not have had reasonable expectation of success in producing the claimed invention. Thus the invention as a whole is not prima facie obvious over the references" (page 11, 4th paragraph).

This is not found persuasive. The cited references are combined because they are all drawn to the compositions for treating obesity.

Applicant argues that "Concerning the Office's assertion that the data showing unexpected results (specification, page 11) is not commensurate in scope with the claims (Office Action, page 8), Applicant respectfully disagrees" (page 11, 2nd paragraph from the bottom). Applicant argues that "There is a technical basis for expecting that the other lipophilic additives (polyethylene glycol, candelilla wax, carnauba wax, polyethylene oxide wax, and petroleum wax) would behave similarly in the present invention. The minimal criterion to obtain the expected result is that the quantities of these lipophilic additives are sufficient so that the encapsulated composition is either solid or pasty at room temperature and that this mass can melt at the human body temperature, i.e. 37°C. This criterion is essential to delay the release of capsaicin" (page 11, last paragraph bridging page 12). Applicant argues that "The choice and proportions of lipophilic additive(s) are numerous, so long as this physical property is reached. The techniques to obtain such lipophilic additives as disclosed in the claim 1, are well know by the skilled person in the art and can be determined by routine experimentation.Consequently, the data is commensurate in scope with the full breadth of lipophilic additives as presently claimed. Evidence pertaining to secondary considerations must be taken into account whenever present. M.P.E.P. § 2145, citing *Pfizer, Inc. v. Apotex, Inc.,* 480 F.3d 1348, 1372 (Fed. Cir. 2007). Accordingly the data in the present specification showing unexpected results, and the above explanation of how the data is commensurate in scope with the claims, would rebut any prima facie case of obviousness that may be made out" (page 12, 2nd-4th paragraphs).

This is not found persuasive. On page 11 pf the Specification, there are two test groups, "composition without wax and without glycerol palmitostearate", and composition comprising 5% by weight of beeswax and 5% by weight of glycerol palmitostearate", the distinction of two

groups are whether they contain "5% by weight of beeswax and 5% by weight of glycerol palmitostearate". If Applicant expects all lipophilic additives would behave similarly, then the two groups should be separated by whether they are having "5% lipophilic additives", instead of "5% by weight of beeswax and 5% by weight of glycerol palmitostearate". If "5% by weight of beeswax and 5% by weight of glycerol palmitostearate" is equivalent to any lipophilic additives, then the table on page 11 in the Specification becomes meaningless.

Applicant's arguments have been fully considered but they are not persuasive, and therefore the rejections in the record are maintained.

Conclusion

No claim is allowed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qiuwen Mi whose telephone number is 571-272-5984. The examiner can normally be reached on 8 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

QM

/Michele Flood/

Primary Examiner, Art Unit 1655